

REMARKS

Claims 1-21 are pending in the application. The amendment to claim 1 serves to further clarify the presently claimed invention. No new matter has been inserted into the application. Further, the amendment to claim 1 does not raise new issues requiring further search or consideration in view of the fact that the inserted language was previously presented, and have been merely moved from one part of the claim to another.

Interview

Applicant acknowledges the Examiner's grant of the telephonic interview conducted on August 22, 2006.

Rejection Under 35 U.S.C. § 102(e) by Teller (U.S. Patent Application Publication No. 2002/0013538)

Claims 1-4, 7, and 11-15 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Teller. Applicant traverses this rejection. Reconsideration and withdrawal thereof are respectfully requested.

Distinctions of the presently claimed invention over Teller have been described in the previous remarks filed on May 10, 2006. Applicant re-asserts that the presently claimed invention is distinguished over Teller.

The Examiner has indicated that "No patentable weight is given to a preamble of a claim." Applicant respectfully disagrees with the Examiner.

The Examiner's attention is directed to MPEP 2111.02. "If the claim preamble, when read in the context of the entire claim, recites limitations of the claim, or, if the claim preamble is 'necessary to give life, meaning, and vitality' to the claim, then the claim preamble should be construed as if in the balance of the claim." *Pitney Bowes, Inc. v. Hewlett-Packard Co.*, 182 F.3d 1298, 1305, 51 USPQ2d 1161, 1165-66 (Fed. Cir. 1999).

Further, "Any terminology in the preamble that limits that structure of the claimed invention must be treated as a claim limitation." MPEP 2111.02.

Applicant submits that the inventive baby health monitoring device, comprising various components within a single unit, not requiring any other extra units, stands alone as a functional device in contrast to a device which requires other extra units. Therefore, the terminology "single unit" in the preamble of claim 1 limits the structure of the claimed invention and must be treated as a claim limitation, providing significance to claim construction.

However, to expedite the allowance of the present application, and in a spirit merely to comply with what appears to be the Examiner's stylistic preference, the terminology "single unit" has been deleted from the preamble in claim 1 and moved to the end of the claim 1, which is believed to address the Examiner's concern. Accordingly, it is believed that the presently claimed invention with "single unit" structure is clearly distinguished from Teller, and therefore Teller fails to anticipate the presently claimed invention.

Rejection Under 35 U.S.C. § 103(a) Over Teller

Claims 5, 6, 8-10, and 16-21 have been rejected under 35 U.S.C. § 103(a) as being “obvious” over Teller alone. Applicant traverses this rejection. Reconsideration and withdrawal of this rejection are respectfully requested.

It is believed that the presently claimed invention according to amended claim 1 is distinguished from Teller as discussed above. Therefore, claims 5, 6, 8-10, and 16-21, which ultimately depend from claim 1, are also distinguished from Teller. Further, Teller fails to provide any motivation to make a single device as in the presently claimed invention. Accordingly, it is believed that the presently claimed invention is not obvious over Teller.

Conclusion

It is believed that the application is now in condition for allowance. Applicants request the Examiner to issue a notice of Allowance in due course. The Examiner is encouraged to contact the undersigned to further the prosecution of the present invention.

The Commissioner is authorized to charge JHK Law's Deposit Account No. **502486** for any fees required under 37 CFR § 1.16 and 1.17 and to credit any overpayment to said Deposit Account No. **502486**.

Respectfully submitted,

JHK Law

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